

# Water Conservation Ordinance (§§ 49-241--49-264)

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## CHAPTER 49 WATER, SEWERS AND SEWAGE DISPOSAL

### ARTICLE VII. WATER CONSERVATION

#### DIVISION I. WATER CONSERVATION

##### **Sec. 49-241. Definitions.**

*Acre-foot of water* means that quantity of water required to cover one (1) acre of land one (1) foot deep three hundred twenty-five thousand, eight hundred fifty-one (325,851) gallons.

*Active recreational area* means an area designated and primarily used for organized sports such as softball, baseball, football, soccer or a similar related sport, including all amenities related to the activity.

*Body of water* means any artificially constructed lake, pond or lagoon, regardless of size.

*Controller* means a mechanical timer capable of operating valve stations to set days, length of time and frequency of water application.

*Department* means the City of Scottsdale Water Resources Department.

*Escaped water* means the pumping, flow release, escape or leakage of any water from any pipe, valve, faucet, connection, diversion berm, well, or any facility for the purposes of water supply, transport, storage, disposal, or delivery onto adjacent property or public right-of-way.

*General manager* means the city water resources department general manager or the general manager's designee.

*Lot* means a legally created parcel of land occupied or intended for occupancy by one (1) main building together with its accessory buildings, and uses customarily incident to it, including the open spaces required by the Scottsdale zoning ordinance and having its principal frontage upon a street as defined in the Scottsdale zoning ordinance.

*Model home* means a facility used exclusively for the promotion and sale of homes similar to the model.

*Person* means an individual, corporation, partnership, incorporated association, or any other similar entity.

*Right-of-way* means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, or pedestrian walkway purposes.

*Turf* means a surface layer of earth containing grass with its roots.

*Turf-related facility* means a school, public recreational facility, cemetery, golf course, industrial park or common area of a housing development that applies water from any source, including effluent, to ten (10) or more acres of land.

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*Water intensive landscaping* means an area of land that is watered with a permanent water application system and planted primarily with plants not listed in the Phoenix AMA Low Water Use Plant List. Included is the total surface area of all water features (i.e. swimming pools of any size, fountains, ponds, water courses, waterfalls, and other artificial water structures) filled or refilled with water from any source.

*Water waste* means the non-beneficial use of water provided by the city water supply system.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 2927, § 1, 10-14-96; Ord. No. 3121, § 1, 03-16-98; Ord. No. 3178, § 4, 10-05-98; Ord. No. 3409, 11-26-01)

## **Sec. 49-242. Limitation on new water fountains.**

- (a) No person shall place into operation after February 1, 1991, any fountain that either sprays water into the air in a fine mist or sprays or drops water into the air in excess of six (6) feet in vertical height.
- (b) Fountains and other water features shall be:
  - (1) Any person installing a fountain must provide a fountain plan to the city, for approval prior to obtaining a permit before commencing construction.
  - (2) Outside of city right-of-way, not visible from the street unless approved by the water conservation office.
  - (3) Designed with a potable water make up. This make up supply shall include a reduced pressure principle backflow prevention assembly installed as per the current standard detail adopted by the City of Scottsdale Standards and Specification Committee. No water shall be used to supply any fountain or water feature from a landscape irrigation system.
  - (4) Designed with catch basins that will maximize the amount of water recycled and minimize make up water. Outdoor features that may over-spray shall be equipped with wind shut-off valves.
  - (5) Designed using equipment that will minimize leakage throughout the life of the water feature.
  - (6) Equipped with a recirculating pump. Filtered backwash shall be reused in a beneficial manner to surrounding plant material and landscaped areas. Discharge of water into streets and alleys is prohibited.
  - (7) Any fountain using more than one thousand (1,000) gallons of water per day shall be separately metered.
  - (8) In addition to the provisions above, nonresidential fountains and other water features shall be:
    - a. Operational only during normal business hours.

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- b. Sited to allow significant environmental enhancement to on-site users and used to cool surrounding area and mask objectionable noises. Allowable examples: courtyards and restaurant seating areas not visible from the street.
- c. Exclusions.
  - (1) Any system that injects or drops water into the air solely for the purpose of cooling a confined air space.
  - (2) Water parks.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3161, § 5, 6-15-98; Ord. No. 3409, 11-26-01)

## **Sec. 49-243. Water conservation rebate programs.**

- (a) The general manager or the general manager's designee may issue water conservation rebates.
- (b) General requirements for all rebates.
  - (1) An approved application form, and the applicant must abide by the procedure set forth therein.
  - (2) The applicant must own the property or be responsible for payment of the water bill.
  - (3) The property must be connected to the city water system.
  - (4) Water conservation rebates shall be available on January 1, 2002, to owners or their representatives of properties that have a water account with the city.
  - (5) All rebates will be paid in the form of a credit on the owner's water bill unless otherwise designated. The total dollar amount of rebates issued in any fiscal year shall not exceed the maximum amount of funds budgeted for such rebates by the city council.
- (c) Plumbing rebates.
  - (1) The rebate program is effective for plumbing fixtures purchased after January 1, 1992, and only for accounts established prior to January 1, 1992.
  - (2) An owner of a single-family residence may receive rebates for a maximum of two (2) 2.75 gallons per minute low-flow showerheads and or two (2) 1.6 gallons per flush toilets. An owner of a multifamily, commercial or industrial property may receive rebates for up to the total number of showerheads and or toilets replaced on the property.
  - (3) Plumbing fixture rebates are available after installation of the plumbing devices listed below at the amounts stated:
    - a. The rebate amount is five dollars (\$5.00) per showerhead that has a flow of 2.75 gallons per minute or less.

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- b. The rebate amount for a toilet that has a 1.6 gallons per flush is seventy-five dollars (\$75.00). No rebate is granted for structures built after January 1992.

(d) Xeriscape landscape rebate.

- (1) The Xeriscape landscape rebate is available beginning January 1, 2002. Only new nonexisting Xeriscape landscapes and conversions to Xeriscape landscapes are eligible for the rebate.
- (2) Each applicant shall submit a landscape plan to the water conservation office for review and approval before it can be qualified for a rebate.
- (3) The new Xeriscape landscape must be installed and completed before the rebate is given.
- (4) Only one Xeriscape landscape rebate may be issued per property or per landscape meter.
- (5) The Xeriscape landscape should maintain the theme of and enhance the neighborhood.
- (6) An operating backflow device is required.
- (7) Approximately seventy-five (75) percent of the landscapable area must consist of low water use plants from the Phoenix AMA Low Water Use Plant List. The remaining twenty-five (25) percent may consist of any type of plant material including turf.
- (8) Completion and installation of an approved Xeriscape landscape plan qualifies the property owner to receive a rebate of up to five hundred dollars (\$500.00) maximum.
- (9) The rebate amount is based on landscapable area. The landscapable area for lots less than nine thousand (9,000) sq. ft. is fifty-five (55) percent of the lot. The landscapable area for lots over nine thousand (9,000) sq. ft. is fifty-five (55) percent of the first nine thousand (9,000) sq. ft. and fifteen (15) percent of the remainder over nine thousand (9,000) sq. ft.; landscapable area is converted to gallons of water at the rate of 36.65 gallons per sq. ft. and then is multiplied by the current average water rate per one thousand (1,000) gallons.

- (e) Irrigation control rebate. The rebate is fifty dollars (\$50.00) for the installation of a new electronically activated automatic irrigation control device installed after January 1, 2002.

(Ord. No. 2329, § 1, 11-18-91; Ord. No. 2472 § 1, 9-14-92; Ord. No. 3178, § 7, 10-5-98; Ord. No. 3409, 11-26-01)

## **Sec. 49-244. Water application systems.**

No person shall apply water received from the city to irrigate any area of land through a water application system installed after February 1, 1991, unless the system is designed and installed to retain all water on the property.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3178, § 5, 10-5-98; Ord. No. 3409, 11-26-01)

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## **Sec. 49-245. Limitation on water intensive landscape/turf areas within new nonresidential facilities.**

- (a) The following types of facilities shall limit the water intensive/turf within the landscapable area to the following percentages of the total lot area:
  - (1) Schools--Fifteen (15) percent of total lot area. All of the remaining area shall consist of plants listed on the Arizona Department of Water Resources (ADWR) low-water use plant list.
  - (2) Churches--Twenty-five (25) percent of total lot area. All of the remaining area shall consist of plants listed on the Arizona Department of Water Resources (ADWR) low-water use plant list.
  - (3) Resorts (including hotels and motels)--Ten (10) percent of the first nine thousand (9,000) square feet and eight and one-half (8.5) percent of the remainder of the total lot area. At least ninety-five (95) percent of the remaining area shall consist of plants listed on the Arizona Department of Water Resources (ADWR) low-water use plant list.
- (b) Designated active recreational areas shall not be considered as part of the lot area and shall not be considered in determining compliance with this restriction.
- (c) Cemeteries--Seventy-five (75) percent of their total operating facility area, excluding parking lots. Expanded portions of a cemetery are excluded if the ownership of the expanded portion is the same ownership as the cemetery as of December 31, 1984.
- (d) Schools, cemeteries, golf courses, common areas of housing developments and public recreational facilities with water intensive landscape/turf greater than or equal to ten (10) acres are exempt from this provision because they are regulated as a large turf facility under the current ADWR management plan for the Phoenix Active Management Area.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3161, § 2, 6-15-98; Ord. No. 3409, 11-26-01)

## **Sec. 49-246. Limitation on water intensive landscape/turf acreage for new commercial users, new industrial users and common areas of residential developments.**

- (a) All new commercial users and new industrial users shall limit water intensive landscape/turf area to the following percentage of the total lot area:
  - (1) If the area of the lot is nine thousand (9,000) square feet or less, the water intensive landscape/turf acreage shall be limited to an area equal to ten (10) percent of the total lot area.
  - (2) If the area of the lot is larger than nine thousand (9,000) square feet but less than or equal to forty-three thousand five hundred sixty (43,560) square feet (one acre), the water-intensive landscape/turf area shall be limited to an area equal to ten percent of the first nine thousand (9,000) square feet and five (5) percent of the remainder of the lot

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area. If the total lot area exceeds forty-three thousand five hundred sixty (43,560) square feet, no additional water-intensive landscape/turf acreage shall be permitted.

- (b) For residential common areas, the water intensive landscape/turf area shall be limited to ten (10) percent of the first nine thousand (9,000) square feet and five (5) percent of the remainder of the lot area. If the total lot area exceeds two hundred seventeen thousand eight hundred (217,800) square feet or five (5) acres, no additional water intensive landscape/turf area shall be permitted. Excluded from this calculation shall be areas used for active recreational areas.
- (c) All plant material used (excluding those in the water intensive landscape/turf area) must be low water-use plants listed on the Arizona Department of Water Resources (ADWR) most current low water use plant list.
- (d) No water intensive landscape/turf shall be permitted in the right-of-way.

(Ord. No. 2318, § 2, 2-17-90; Ord. No. 3161, § 3, 6-15-98; Ord. No. 3409, 11-26-01)

### **Sec. 49-247. Limitations on model home landscaping.**

- (a) All new single-family model homes shall limit their water intensive landscape/turf area to the following percentage of the total lot area:
  - (1) If the area of the lot is nine thousand (9,000) square feet or less, the water intensive landscape/turf square footage shall be limited to an area equal to ten (10) percent of the total lot.
  - (2) If the area of the lot is larger than nine thousand (9,000) square feet but less or equal to forty-three thousand five hundred sixty (43,560) square feet (one acre), the turfed area shall be limited to an area equal to ten (10) percent of the first nine thousand (9,000) square feet and five (5) percent of the remainder of the lot area. If the total lot area exceeds forty-three thousand five hundred sixty (43,560) square feet, no additional turfed area shall be permitted.
- (b) Water intensive landscape/turf shall only be located in rear yards and play areas.
- (c) All plant material used (excluding those in the water intensive landscape/turf area) must be low water-use plants listed on the Arizona Department of Water Resources (ADWR) most current low water use plant list.
- (d) No water intensive landscape/turf shall be permitted in the right-of-way.

(Ord. No. 3161, § 4, 6-15-98; Ord. 3409, 11-26-01)

### **Sec. 49-248. Conservation plans upon establishment of service to new nonresidential customers.**

- (a) As a condition for the establishment of service, all new nonresidential customers with an estimated annual water demand of ten acre-feet or more other than users supplied water

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incidental to construction work, shall submit a conservation plan identifying the anticipated types of water uses and demonstrating the use of the latest commercially available conservation technologies for both interior and exterior water uses consistent with reasonable economic return.

- (b) The city shall review each conservation plan and shall not commence serving water to the new nonresidential customer unless the plan demonstrates to the satisfaction of the city that the new customer will use the latest commercially available conservation technology for both interior and exterior water use consistent with reasonable economic return.
- (c) If a new nonresidential customer, other than a user supplied water incidental to construction work, which did not have an estimated annual water demand of ten (10) acre-feet or more at the time the city commenced service of water to the customer, and which did not submit a conservation plan at that time, registers a water use of ten (10) acre-feet or more of water supplied by the city after the first full calendar year of operation or in a subsequent calendar year, the city shall notify the customer in writing that the customer shall, before July 1 of the following calendar year, submit to the city a water conservation plan meeting the specifications set forth in subparagraph (a) above for review and approval by the city.
- (d) The city shall terminate water service to the new nonresidential customer unless the customer submits, within one hundred twenty (120) days after receiving the written notification in subparagraph (c) above, a water conservation plan demonstrating the use of the latest commercially available conservation technologies for both interior and exterior water use consistent with reasonable economic return.
- (e) The city may grant 30-day extensions to the 120-day period if the new nonresidential customer pays to the city for each extension an amount equal to one-sixth ( 1/6) of the total amount paid to the city for water delivered to the customer in the previous calendar year, or three hundred dollars (\$300.00), whichever is greater. The city shall not grant more than three (3) such extensions to a new nonresidential customer.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3178, § 6, 10-5-98; Ord. No. 3409, 11-26-01)

### **Sec. 49-249. Leakage, escape of water prohibited.**

- (a) No person shall permit the excess use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or distribution system for any period of time after such escape of water should have reasonably been discovered and corrected.
- (b) No person shall Willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, impede vehicular or pedestrian traffic, create a hazardous condition to such traffic, or cause damage to city rights-of-way through failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch.
- (c) Willfully or negligently fail to accept irrigation water after it has been ordered.
- (d) Irrigate property in a manner which results in the overflow of irrigation waters.

(Ord. No. 3178, § 8, 10-5-98; Ord. No. 3409, 11-26-01)



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## **Sec. 49-250. Violations.**

- (a) For a first violation of any provision of this section, the city shall issue a written notice of first violation and provide educational materials on water conservation, including a copy of the relevant provisions of this chapter, to the water user violating the provisions of this section. The city shall give the water user a reasonable period of time to correct the violation.
- (b) For a second violation of any provision of this section, the city shall issue a written notice of second violation to the water user requiring correction of the violation within a reasonable period of time.
- (c) For a third violation of any provision of this section, the city shall issue a written notice of third violation to the water user imposing a fifty dollar (\$50.00) fine. The fine shall be added to the water user's account. Failure to pay any portion of a water user's account, including any fines imposed pursuant to this section, shall subject said account to termination of water service in accordance with the provisions of this section.
- (d) For a fourth or subsequent violation of this section, the city shall impose a fine equal to twice the average monthly billing for the immediately preceding six-month period for the meter through which the wasted water was supplied. The fine shall be added to the water user's account. Failure to pay any portion of a water user's account, including any fines imposed pursuant to this section, shall subject said account to termination of water service. In addition to any fine imposed, the city may also terminate water service to the water user. The city shall not restore service until the general manager or the general manager's designee has determined that the water user has provided reasonable assurances that future violations of this chapter by such user will not occur. In addition, the general manager may require a security deposit.
- (e) In addition to the remedies set forth above, the city may seize equipment, line, fountains and other devices which are operated in violation of this Code, until the fine is paid. The city may dispose of these items if the fine is not paid in six (6) months from the date the equipment was confiscated.

(Ord. No. 3178, § 8, 10-5-98; Ord. No. 3409, 11-26-01)

## **Sec. 49-251. Conservation waivers.**

The director may grant a waiver from indoor conservation code requirements, but only when the special character of a structure necessitates it, such as when a building has official historical status.

(Ord. No. 3409, 11-26-01)



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## **Sec. 49-252. Right to hearing.**

Any person against whom a penalty is levied under this section shall have a right to a hearing before the general manager or the general manager's designee.

(Ord. No. 3178, § 11, 10-5-98; Ord. No. 3409, 11-26-01)

## **DIVISION II. DROUGHT MANAGEMENT**

### **Sec. 49-253. Scope.**

The provisions of this division shall apply to all persons, customers, and property served by the City of Scottsdale Water Resources Department.

(Ord. No. 3516, § 3, 6-17-03)

### **Sec. 49-254. Declaration of policy.**

It is hereby declared that, because of the conditions sometimes prevailing in Arizona, the general welfare of the city requires that the waste or unreasonable use, or unreasonable method of use of water be prevented. Water waste is a public nuisance, especially in times of drought.

(Ord. No. 3516, § 3, 6-17-03)

### **Sec. 49-255. Purpose.**

The city will use intensive public education to assist customers impacted by the shortage to understand the alert and the city's need for voluntary compliance. In addition to education, the city may use enforcement measures to curb water misuse. No person shall use, or permit the use of city water resources for purposes contrary to this article or a drought management plan.

(Ord. No. 3516, § 3, 6-17-03)

### **Sec. 49-256. City manager; drought management plan implementation.**

- (a) The city manager shall direct the general manager of water resources to promulgate a drought management plan containing regulations setting forth the criteria for implementation and termination of various water use reduction stages.
- (b) The city manager is authorized to declare a drought, and authorize implementation of the drought management plan, in response to events including, but not limited to, the following:

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the Salt River Project or the Central Arizona Water Conservation District announces reductions in supply, or an insufficient supply appears likely due to water system limitations or structural failure.

- (c) Such declaration may designate the entire area served by the City of Scottsdale Water Resources Department, or a portion of it if the shortage is not system-wide.
- (d) Upon declaring a drought, the city manager may direct the Water Resources Department to implement stage one, two, three or four conservation regulations, depending on the severity of the drought conditions. The city manager may update these regulations from time to time.
- (e) The city manager may terminate the drought declaration when the Water Resources General Manager advises that the conditions that triggered it no longer exist.

(Ord. No. 3516, § 3, 6-17-03)

## **Sec. 49-258. Notification and publication.**

If the city manager determines that the health and safety of the city dictate implementing the drought management plan, notification shall be published in a in a paper of general circulation, to educate the public about the need for the plan, and give them notice of conservation regulations and requirements of the applicable stage of the plan. A copy of the drought management plan shall also be available for inspection at the city clerk's office, and the Water Resources Department administrative office during normal business hours.

(Ord. No. 3516, § 3, 6-17-03)

## **Sec. 49-259. Enforcement.**

- (a) The city manager or designee shall have authority to take actions to enforce any mandatory elements that are part of drought management plans.
- (b) The city may impose a surcharge on water consumed in excess of the amount prescribed by the drought management plan in place at the time.
- (c) A written notice shall be placed on the property when a violation occurs, and a duplicate mailed to the person who responsible for the service to the property where the violation took place. The notice shall describe the violation and order that it be abated immediately.
- (d) For subsequent violations, the city will issue citations and fines. Fines are serial; that is, for each subsequent violation there is a separate fine.
- (e) Funds generated by the fines shall be used to mitigate the impact of the drought.

(Ord. No. 3516, § 3, 6-17-03)

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## **Sec. 49-263. Variances.**

Variances to drought plan provisions may be granted at the discretion of the city manager or designee. Applicants for a variance must apply in writing to the department of water resources, and demonstrate special circumstances such as health and safety needs or obligation of contract.

(Ord. No. 3516, § 3, 6-17-03)

## **Sec. 49-264. Limited exemption to restrictions for users of reclaimed water.**

To the extent they are exempt from the drought management plan, users of effluent shall clearly post notices stating that the water being used is not from the public drinking water supply, and is in conformance to drought management plan in force at the time.

(Ord. No. 3516, § 3, 6-17-03)